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COMMITTEE ON SUBORDINATE LEGISLATION

(SIXTH LOK SABHA)

NINETEENTH REPORT

(Presented on the 25th April, 1979)

LOK SABHA SECRETARIAT
NEW DELHI
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Corrigenda to the Nineteenth Report of the Committee on Subordinate Legislation (Sixth Lok Sabha) (Presented on the 25th April, 1979)

Page	Para	Line	For	Read
(i)	item No. VII(ii)	6 from bottom	-	After 1976 insert "(G.S.R.643 of 1976
5	24	7	notify at	notify it at
13	-	3	there	these
24	-	21	point out,	pointed out,
28	-	22	subjects	subject
36	5	12	efforts	error

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1978-79)

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Shri Y. Sahai—*Chief Legislative Committee Officer.*

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Nineteenth Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on the 21st March and 6th April, 1979.

3. The Committee considered and adopted this Report at their sitting held on the 19th April, 1979. The Minutes of the sittings, which form part of the Report, are appended to it.

4. A statement showing the summary of recommendations/ observations of the Committee is also appended to the Report.

II

THE PORT OF NEW MANGALORE RULES, 1976 (G.S.R. 122 OF 1977)

(A)

5. Rule 43 of the Port of New Mangalore Rules, 1976, reads as under:

> "Port authorities accept no liability for delay etc. The port authority shall not be liable for any delay in respect of vessel entering, remaining in, or going out of the port or for delay in the loading or unloading of goods owing to circumstances beyond their control."

6. It was felt that the above provision being in the nature of a saving provision should more appropriately be incorporated in the Indian Ports Act, or should be expressly authorised by it.

7. The Ministry of Shipping and Transport (Transport Wing) were asked whether they had any objection to omitting the above rule from the Port of New Mangalore Rules, 1976, and incorporating it in the Indian Ports Act.

8. In their reply dated the 4th May, 1978, the Ministry of Shipping and Transport (Transport Wing) stated as under:—

> "....the question of incorporating a similar provision to Rule 43 of the New Mangalore Port Rules, in the Indian Ports Act, 1908 was examined by the Ministry in consultation with the Ministry of Law, Department of Legal Affairs. That Ministry has advised as under:—
>
> 'The Rule 43 of the New Mangalore Port Rules, 1976 dealing with liability for delay of vessels in port is in respect of entering, remaining or going out of the port due to reasons other than delay in loading and unloading beyond the control of the Port Authorities and in respect of delay in loading and unloading. It may be seen that Section 6 of IP Act as a whole deal with the movement of the vessel in and out of the Port for the purpose of loading and unloading. For instance section 6(1) (e) deals with regulating of vessels while taking in or discharging cargo in any port, Section 6 (1) (h) deals with regulating the moving of all vessels within the port. The Section primarily postulates framing of rules for the purpose of regulating the movement of vessels in and out of the port of loading and unloading and other purposes. Therefore, the proposed rule based on rule 43, it is felt, may be framed within the ambit of Section 6 of the Act and amendment of the Act for that purpose may not be necessary.' "

9. The Committee are not convinced with the opinion of the Ministry of Law as furnished by the Ministry of Shipping and Transport (Transport Wing). The Committee feel that although Section 6 of the Indian Ports Act, under which the Port of New Mangalore Rules have been framed, deals with the movement of vessels in and out of the Port for the purpose of loading and unloading of cargo yet a saving provision as contained in Rule 43 does not come within the ambit of that Section. The Committee, therefore, desire the Ministry of Shipping and Transport (Transport Wing) to omit Rule 43 from the Port of New Mangalore Rules, 1976, and get its provisions incorporated in the Indian Ports Act.

(B)

10. Rule 53 of the Port of New Mangalore Rules, 1976 empowers the Traffic Manager to remove consignments of iron, steel machinery, packages, long and unwieldy heavy lifts, at his discretion to any other place, at the cost of the consignee without giving any previous notice to him.

11. It was felt that ordinarily notice for removal should be given to the consignees, owners or importers. In very special cases, however, when it is considered necessary to dispense with the requirement of the notice, reasons should be recorded in writing.

12. The Ministry of Shipping and Transport (Transport Wing) with whom the matter was taken up, have stated as under:—

> "Loading and unloading at the port is a normal process. Certain discretionary powers are necessary in cases where there is obstruction to traffic or conditions of congestion or hindrance to the convenient use of the port. It is obviously very difficult for the port authorities to await concurrence of the owner for shifting the goods when the exigency of the situation demands prompt action. Giving of notice, in such exceptionaal cases will result in time consuming process and defeat the whole purpose for provision of such rule. It may be reasonable if port authorities are allowed to record the circumstances under which removals of goods are effected.

13. The Committee note that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed that the port authorities would record the reasons in writing for removal of iron, steel machinery, packages, long and unwieldy heavy lifts to another place at the cost of the consignee. The Committee desire the Ministry to bring forth necessary amendment to the Port of New Mangalore Rules to the above effect at an early date.

(C)

14. Rule 60(2) and 62(3) of the Port of New Mangalore Rules, 1976, read as follows:—

> "60(2).—The Conservator may at any time cancel any licence issued under this rule or may suspend the same for such period as may be specified for breach of any of the terms of the licence or for breach of any of the provisions of this rule.
>
> "62(3).—The Conservator, may at any time cancel any registration certificate issued under this rule or may suspend the same for such period as may be specified for breach of any of the terms under which such registration is permitted."

15. The Ministry of Shipping and Transport (Transport Wing) were asked to state whether they had any objection to amend the

above rules so as to (i) provide for giving a reasonable opportunity of being heard to the person concerned before his licence/registration certificate is cancelled, (ii) prescribe a miximum time-limit for which the licence/registration certificate can be suspended.

16. In their reply dated the 10th May, 1978, the Ministry have agreed to amend the rules as follows:—

"(i) Rule 60(2) may be amended to provide for giving reasonable opportunity for being heard. The maximum period of suspension could be two months.

(ii) Rule 62(3) may be amended to provide for reasonable opportunity for being heard. The maximum period of suspension could be two months."

17. The Committee note that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (2) of rule 60 and sub-rule (3) of Rule 62 of the Port of New Mangalore Rules, 1976 so as to provide for a reasonable opportunity of being heard being given to the person concerned before his licence|registration certificate is cancelled and fixing the maximum period of suspension of licence|registration certificate as two months. The Committee desire the Ministry to publish the necessary amendments to Rules at an early date. .. ..

(D)

18. Rules 60(3) and 64 of the Port of New Mangalore Rules, 1976 provide for cancellation or suspension of the licence/registration certificate.

19. The Ministry of Shipping and Transport who were asked to state whether they had any objection to prescribing a miximum time-limit for which the licence|registration certificate may be suspended, have agreed to amend the rules as follows:—

"Rules 60(3) may be amended to specify the maximum period of suspension of two months,

Rule 64 may be amended to provide for maximum period of suspension of two months."

20. The Committee note that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (3) of Rule 60 and Rule 64 of the Port of New Mangalore Rules, 1976 so as to specify therein the miximum period

of suspension of licence/registration certificate as two months. The Committee desire the Ministry to notify the requisite amendment to the Rules at an early date.

(E)

21. Rule 74(6) of the Port of New Mangalore Rules, 1976 reads as under:—

> "The port may exempt, any vessel or line of vessel, from the provisions of this rule for such period as the Conservator may think fit."

22. In order to guard against the possible abuse of the power of exemption by the Conservator, it was enquired from the Ministry of Shipping and Transport (Transport Wing) whether they had any objection to making a provision for recording or reasons in writing before grant of exemption.

23. The Ministry in their communication dated the 11th November, 1977, have agreed to amend the rule as under:—

> "The port may exempt, after recording reasons in writing before grant of such exemption, any vessel or line of vessel from the provisions of this Rule for such period as the conservator may think fit."

24. The Committee note that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (6) of Rule 74 of the Port of New Mangalore Rules, 1976, to provide for recording of reasons in writing before the grant of exemption in order to obviate any scope of abuse of power. The Committee approve the proposed amendment and desire the Ministry to notify at an early date.

III

(i) THE MAJOR PORT TRUSTS (PROCEDURE AT BOARD MEETINGS) AMENDMENT RULES, 1974 (G.S.R. 876 OF 1976)

(ii) THE MINISTRY OF FINANCE, DEPARTMENT OF BANKING (CLASS IV POSTS) RECRUITMENT (AMENDMENT) RULES, 1973 (G.S.R. 1689 OF 1976).

25. The Major Port Trusts (Procedure at Board Meetings) Amendment Rules were published in the Gazette of India, on the 19th June 1976, but in the short title these were shown as of 1974

26. Similarly the Ministry of Finance, Department of Banking (Class IV Posts) Recruitment (Amendment) Rules were published in the Gazette of India on the 4th December, 1976 and in the short title these were shown as of 1973.

27. Attention of the Ministries of Shipping and Transport (Transport Wing) and Finance (Department of Banking) was invited to the oft-repeated recommendation of the Committee on Subordinate Legislation that for facility of reference, the short title of the rules should bear the year of their publication and not any other year.

28. The Ministries in their replies stated as under:—

Ministry of Shipping and Transport (Transport Wing)

"The said rules were published in 1976 but the correct year of publication could not be given in the short title through oversight. We are, therefore, issuing a corrigendum* rectifying the omission and discrepency mentioned above."

Ministry of Finance (Department of Revenue and Banking) (Banking Wing)

"On perusal of the printed copy of the Gazette of India (page 2983), Part II, Section 3, sub-section (i) dated the 4-12-76 (English version) publishing the Ministry of Finance, Department of Banking (Class IV posts) Recruitment (Amendment) rules, 1976 it has been found that we have correctly mentioned the year '1976' in the short title of the above recruitment (amendment) rules but the mistake has occurred in the English version while printing these in the Gazette of India in which it has been wrongly printed as '1973'. We are taking steps to issue **corigendum in this regard and inform you accordingly."

29. Although the error of failure to indicate the correct year in the short titles to the Rules has since been rectified yet the Committee regret to observe that the Ministries concerned did not care to verify after the publication of rules that their short titles bore the correct year of publication. The Committee have time and again emphasised that responsibility of the Ministry/Department does not cease with the sending of notifications to the press. After the same are published in the Gazette it is the duty of the Ministry/Department concerned to examine whether these have been correctly printed and, if necessary to issue corrigendum thereto suomoto without waiting for the Committee to point it out.

30. The Committee observe that the error in the present case is of a minor nature but all the same it can cause considerable incon-

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Vide GSR No. 974 dated 23-7-77.

**Vide* GSR No. 613 dated 14-5-77.

venience to the public in locating the Rules. The Committee desire all the Ministries|Departments to be careful in such matter in future.

IV

(i) THE MICA MINES LABOUR WELFARE FUND (AMENDMENT) RULES, 1976 (G. S. R. 1457 OF 1976).

(ii) THE INDIAN POST OFFICE (EIGHTH AMENDMENT) RULES, 1976 (S. O. 2915 OF 1976).

31. In para 11 of their Fourteenth Report (Fifth Lok Sabha) presented to the House on the 20th December, 1974, the Committee recommended as under:—

> "The Committee earnestly desire all Ministries|Departments to undertake examination of all Acts with which they are administratively concerned in order to find out which of them do not contain a provision for laying of Rules before Parliament and to incorporate this provision in the Acts at their earliest."

32. The Department of Parliamentary Affairs circulated the above recommendation of the Committee to all Ministries|Departments of the Government for compliance *vide* their O.M. No. 32 (12)|74-R&C dated the 5th February, 1975.

33. During examination of the Mica Mines Labour Welfare Fund (Amendment) Rules, 1976 and the Indian Post Office (Eighth Amendment) Rules, 1976, it was noticed that the Mica Mines Labour Welfare Fund Act, 1946 and the Indian Post Office Act, 1898 under which the above rules had been framed did not contain the laying provision.

34. The Ministries of Labour and Communications (P&T) to whom the matter was referred inviting their attention to the above recommendation of the Committee, have in their replies dated the 24th June and 28th May, 1977 respectively stated as under:—

Ministry of Labour

> "....the Ministry of Labour have had no occasion to undertake any amendment of the Mica Mines Labour Welfare Fund Act, 1946 in the recent past. This Ministry have, however, no objection for incorporation of a provision for laying of rules framed under the above Act before Parliament and if approved, the proposed amendment will be carried out when the Act is amended in future."

Ministry of Communications (P&T Board)

"....a wholesale revision of the Indian Post Office Act is under examination. The point mentioned by the Committee on Subordinate Legislation in para 11 of their 14th Report (5th Lok Sabha) has been noted and suitable provision will be made in this regard in the bill amending the Indian Post Office Act."

35. The Committee feel that the incorporation of a provision regarding laying of rules, regulations etc. framed under the Acts before Parliament is very important. It provides an opportunity to the Members to suggest amendments to the Rules, Regulations, etc. laid on the Table, if they contain any lacuna. The Committee desire the Ministries of Labour and Communications (P&T Board) to bring the necessary amending legislation at an early date. If some other proposed amendments to the Act are likely to take further time, they may bring amending legislation exclusively for the laying provision as early as possible, but in no case later than the Monsoon Session, 1979.

V

THE KHADI AND VILLAGE INDUSTRIES COMMISSION (AMENDMENT) REGULATIONS, 1976 (G.S.R. 1307 OF 1976)

36. Regulation 5(3) of the Khadi and Village Industries Commission Regulations, 1958 as substituted by the amending Regulations of 1976, reads as under:—

"5(3) (d) Notwithstanding anything contained in clauses (a) and (b), the commission shall, if it is of the opinion that it is in public interest to do so, have the absolute right to retire any employee by giving him notice of not less than 3 months in writing or 3 months' pay and allowances in lieu of such notice:

(i) if he is in Class I or class II services or post and had entered the service of the Commission before attaining the age of 35 years, after he has attained the age of 50 years;

(ii) in all other cases, after he has attained the age of 55 years.

37. It was felt that some safeguards should be evolved by the Khadi and Village Industries Commission to ensure that the power conferred by the above regulation was not abused, in particular

this power may not be used as a short cut to disciplinary proceedings.

38. The Ministry of Industry (Department of Industrial Development) with whom the matter was taken up, on the 13th April, 1977 have, in their reply dated the 20th June, 1978, stated as under:—

> "....the Khadi and Village Industries Commission have since reviewed the provisions of Khadi and Village Industries Commission (Amendment) Regulations, 1976, and have forwarded a draft amending Notification providing for sufficient safeguards against misuse of the provisions of the Regulations notified under GSR 1307 of 1976.
>
> This Ministry will examine the proposals made by the Commission and apprise the Lok Sabha Secretariat about the action taken by this Ministry on these proposals."

39. After pursuing the matter further with the Ministry, the Commissioner (IC) in his reply dated the 24th August, 1978, have stated as under:—

> "The Ministry of Law (Leg. Department) had suggested certain modifications in the draft Notification. I have referred them to the KVIC asking the Commission to confirm. A telex reminder is being sent to the KVIC today to expedite their reply. We are trying our level best to send the Notification in its final form at an early date."

40. Even when a period of about 9 months has elapsed since then the Ministry have failed to send their final reply.

41. The Committee deprecate the failure on the part of the Ministry of Industry (Department of Industrial Development) in not furnishing their final reply. The Committee observe that such delays not only hamper the work of the Committee but also result in unnecessary prolongation of infirmities in the rules. The Ministry should be prompt in sending replies to the communications sent by the Committee and not deal with them in lackadaisical manner.

42. The Committee desire the Ministry of Industry (Department of Industrial Development) to notify the requisite amendment at an early date to the Khadi and Village Industries Commission Regulations, 1976 providing for safeguards against the misuse of powers given under regulation 5(3) (d).

VI

(i) THE POSTS & TELEGRAPHS CIVIL ENGINEERING (CIVIL GAZETTED OFFICERS) RECRUITMENT RULES, 1976 (G.S.R. 1385 OF 1976).

(ii) THE CENTRAL VIGILANCE COMMISSION (STAFF) AMENDMENT RULES, 1976 (G.S.R. 363 OF 1976).

43. The schedule appended to the Posts and Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules, 1976, did not indicate the number of posts against each category of posts.

44. It was felt that in order to make the rules self explicit and for the information of all concerned the number of posts should be incorporated in the rules.

45. The Ministry of Communications (Posts and Telegraphs Board) to whom the matter was referred have in their reply dated the 4th June, 1977 have stated as under:—

> "....the question of deletion of column No. 2 (No. of Posts) from the Schedule appended to the Rules was considered in consultation with the Union Public Service Commission and Department of Personnel and Administrative Reforms and it was felt that the number of posts to be mentioned in column 2 of the Schedule undergoes change very frequently. With the creation|reduction of each post, it becomes incumbent to amend column 2 of the Schedule annexed to the Recruitment Rules thereby creating all round avoidable work. The Column 2 indicating the number of posts in a particular grade is only meant for the Commission to consider the mode of recruitment|promotion/transfer to a particular grade. The Commission have stated that instead of making a privision of the number of post in the statutory rules and to avoid the necessity of its amendment every time a new post is created in a particular cadre, a yearly return about the permanent/temporary strength of the various grades covered in the RRS under question, may be sent to the Commission to enable them to review the matter with a view to keep a fine balance between the quotas of direct recruitment/promotion/transfer on deputation. This view has been accepted by the Department of Personnel and Administrative Reforms and accordingly the column 2 (number of posts) has not been included in the RRS."

46. Similarly Rule 3 of the Central Vigilance Commission (Staff) Rules, 1964, as substituted by the Central Vigilance Commission (Staff) Amendment Rules, 1976, provided as under:—

"The staff of the Vigilance Commission shall consist of a Secretary and such other officers and employees as the President may from time to time determine:

Provided that the Central Vigilance Commissioner may sanction the creation of posts on the staff of the Central Vigilance Commission to the extent and subject to the conditions laid down in the 'delegation of Financial Powers Rules, 1958' as amended from time to time."

47. Normally the recruitment rules indicate nomenclature and number of posts covered by the rules. In the above rules this has been left to be determined by the President of India.

48. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to whom the matter was referred had in their reply dated the 4th October, 1977, replied as under:—

"The matter was considered by this Department in consultation with the Central Vigilance Commission. It has, however, not been found possible to agree to the suggestion to indicate the number of various posts in the Central Vigilance Commission (Staff) Rules, because this will mean amending the said rules every time there is a change in the number of posts of any category. In this connection, it may be stated that some time back a reference was received from the Ministry of Communications on the same point in the establishment Division of this Department. The matter was examined by the Ministry of Communications in consultation with the Union Public Service Commission, who advised that in view of the difficulties expressed by the Ministry of Communications in giving the number of posts in the Recruitment Rules, the Commission would have no objection if the same is not indicated therein. The Commission suggested that as and when any change in the number of posts occurs, it should be intimated to the Commission. In view of this, it does not appear to be advisable to mention the number of posts in the Central Vigilance Commission (Staff) Rules, 1964.

Action is, however, being initiated to amend the Central Vigilance Commission (Staff) Rules, 1964, in order to specify

therein, the various categories of the posts in the Central Vigilance Commission."

49. At their sitting held on the 18th November, 1978, the Committee considered the above replies of the Ministry of Communications (Post and Telegraph Board) and the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) and felt that there was no uniform practice of indicating the number of posts against various categories in the recruitment rules issued by different Ministries|Departments. The Committee desired to know from the (Department of Personnel and Administrative Reforms) as to why a uniform practice was not being followed in this regard. The Committee also desired to be furnished with the number of various rules| regulations, Orders issued during the last six months in which number of posts was not indicated and also those in which it was indicated.

50. The Department of Personnel and Administrative Reforms in their reply dated the 20th December, 1978, have replied as under:—

"....as far as possible it is insisted upon Ministries|Departments etc. to indicate the number of posts in the recruitment rules and no deviation in this regard is made unless there are any exceptional reasons therefor. It is now proposed to suggest to Ministries|Departments to put an asterisk on the existing number and to say that it is subject to variation depending on work-load.

It may, however, be stated that so far as this Department is aware during the last 6 months no recruitment rules have been concurred in by them wherein the number of posts was not mentioned."

51. The Committee observe that the replies furnished by the Ministry of Communications (P&T Board) and the Department of Personnel and Administrative Reforms are contradictory to each other. The Ministry of Communications have, in their reply, stated that Department of Personnel and Administrative Reforms have accepted their contention for not giving the number of posts in the recruitment rules where as the Department of Personnel and Administrative Reforms in their reply have stated that as far as possible it is insisted upon Ministries|Departments to indicate the number of posts in the recruitment rules and no deviation in this regard is made unless there are exceptional reasons therefor. However, the Committee would like to accept the suggestion of the Department of

Personnel and Administrative Reforms regarding indicating the number of posts in the recruitment rules with an asterisk to say that there are subject to variation.

52. The Committee desire the Ministry of Communications (P&T Board) to amend the Posts and Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules, 1976 by indicating the number of posts with an asterisk and a foot-note thereto saying that these are subject to variation and the Department of Personnel and Administrative Reforms to amend the Central Vigilance Commission (Staff) Rules, 1964 to specify therein the various categories of the posts in the Central Vigilance Commission as also the number of posts in each category with an asterisk and a foot-note as suggested by them. The Committee further desire the Department of Personnel and Administrative Reforms to issue the necessary instructions to all Ministries|Departments in this regard for compliance.

VII

(i) THE DEPARTMENT OF SPACE EMPLOYEES' (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1976 (S.O. 270-E OF 1976).

(ii) THE BOMBAY PORT TRUST EMPLOYEES' (CLASSIFICATION, CONTROL AND APPEAL) REGULATIONS, 1976 (G.S.R. 643 OF 1976).

53. Rule 3(2) of the Department of Space Employees (Classification, Control and Appeal) Rules, 1976, reads as under:—

> "Notwithstanding anything contained in sub-rule (1), the President may by order exclude any class of employees from the operation of all or any of these rules."

54. Similarly rule 3(2) of the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976, reads as under:—

> "Notwithstanding anything contained in sub-regulation (1), the Chairman may by order, and with the prior approval of the Central Government, so far as it concerns an employee, referred to in clause (a) of sub-section (1) of section 24 of the Act, exclude from the operation of all or any of these regulations, any employee or class of employees."

55. It was observed that under the above provisions the President|Chairman could by an order provide that the procedure for disciplinary proceedings laid down in the rules|regulations would not apply to any employee or class of employees.

56. The matter was referred to the Department of Space and Ministry of Shipping and Transport (Transport Wing) to state the considerations for making such a provision in the rules|regulations.

57. The Department of Space in their reply dated the 18th April, 1977, have stated that rule 3(2) corresponds rule 3(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and may not, therefore, be treated as unusual. The Ministry of Shipping and Transport (Transport Wing) in their reply dated the 28th May, 1977 have stated as under:—

> "Regulation 3(2) of the BPT Regulations corresponds to rule 3(2) of CCS(CCA) Rules, 1965 which says that 'nothwithstanding anything contained in sub-rule (1), the President may by order exclude any class of Government Servants from the operation of all or any of these rules.' Under this rule Government have issued orders from time to time directing that certain classes of Government Servants shall be wholly excluded from the operation of the CCA Rules. The orders issued by Government are contained in the Government of India's decisions below rule 3 of the CCA Rules, 1965, contained in the Brochure on Central Civil Services (Classification, Control and Appeal) Rules, 1965. Situations may arise when it may be necessary to exclude certain classes of persons, employed in the Port Trust, similar to the classes of Government servants excluded from the purview of the BPTE (CCA) Regulations. Following the scheme of the distribution of powers on staff matters, as contained in the Major Port Act, 1963, powers have been given to the Chairman [and with the prior approval of Government in so far as the employees, referred to in clause (a) of Section 24(1) of the Act are concerned] to exclude from the operation of all or any of the regulations any employee or class of employees."

58. The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to whom the matter was referred for comments have in their reply dated the 19th January, 1978 stated as under:—

> "Rule 3(2) of the CCS(CCA) Rules, 1965 is to be read in the context of Rule 3(1) *ibid* which enumerates the categories of Government servants to whom the CCS (CCA) Rules, 1965 would not apply. Since there may be occasion to exclude some other categories of Government servants

from the purview of the CCA Rules, an enabling provision has been made in Rule 3(2) *ibid* empowering the President to exclude any class of Government servants from the operation of these rules. In other words, what is contemplated in Rule 3(2) of the CCS(CCA) Rules, 1965 is the exclusion of specified categories of Government servants from the operation of all or any of the provisions of the CCS(CCA) Rules, 1965 and it does not envisage the exclusion of all Government servants from the operation of these rules. However, the Department of Space may be requested to clarify why they consider it necessary to have a similar provision in the CCA Rules, applicable to the employees of that Department only, as, according to the provisions of the Government of India, (Allocation of Business) Rules, 1961, general conditions of service of employees of the Department of Space are outside the purview of the Department of Personnel and Administrative Reforms."

59. The Department of Space to whom the matter was referred again to state why they consider it necessary to retain rule 3(2), have in their reply dated the 4th February, 1978 stated as under:—

"as in the case of Central Civil Services (Classification, Control and Appeal) Rules, 1965, Rule 3(2) of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976, is to be read in the context of rule 3(1) *ibid* which enumerates the category of employees to whom these rules shall not apply. Since it is felt that, there may be occasion to exclude some other categories of employees in the Department from the operation of all or any of the provisions of these rules, it is considered necessary to have a provision as made in rule 3(2) *ibid.*"

60. The Committee are not convinced by the arguments advanced by the Department of Space, Department of Personnel and Administrative Reforms and the Ministry of Shipping and Transport (Transport Wing) for retaining Rule 3(2) of the Classification, Control and Appeal Rules. The Committee feel that when sub-rule (1) of Rule 3 of the Department of Space Employees (Classification, Control and Appeal) Rules, 1976, the Bombay Port Trust Employees Classification and Appeal) Regulations, 1976 and the Central Civil Services (Classification, Control and Appeal) Rules, 1965, list the categories of Employees who have been exempted from the operation of the respective Rules, the provisions of sub-rule (2) of Rule 3 of these

Rules appear to be redundant because such discretionary powers may result in favouritism leading to discrimination. The Committee therefore, desire the Department of Space, Department of Personnel and Administrative Reforms and Ministry of Shipping and Transport (Transport Wing) to delete sub-rule (2) of Rule 3 of their respective Classification, Control and Appeal Rules.

VIII

THE DEPARTMENT OF SPACE EMPLAYEES' (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1976 (S.O. 270-E OF 1976)

61. Rule 7(1) (c) of the Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 reads as under:—

> "7(1) The appointing authority or any authority to which it is Subordinate or the disciplinary authority or any other authority empowered in that behalf by the President by general or special order, may place an employee under suspension.
>
> (C) where a case against him in respect of any criminal offence is under investigation, inquiry or trial, or he is under preventive detention or has been arrested for debt."

62. The provision regarding placing an employee under suspension if he had been arrested for debt appeared to be an unusual. It was felt that an employee might not be placed under suspension until a *prima facie* case against him was established.

63. The Department of Space to whom the matter was referred have amended the rules by omitting the words "or he is under preventive detention or has been arrested for debt" from the rule 7(1) (c) above (*vide* S.O. No. 2127 dated 25th June, 1977).

64. The Committee note with satisfaction that on being pointed out, the Department of Space have amended the Department of Space Employees (Classification, Control and Appeal) Rules, 1976 by deleting therefrom the provision of suspending an employee for debt which is of an unusual nature.

IX

THE CARDAMOM (AMENDMENT) RULES, 1977 (G.S.R. 1458 OF 1977)

65. Rule 47 of the Cardamom Rules, 1966, as inserted by the Cardamom (Amendment) Rules, 1977, reads as under:—

> "47. Remuneration etc. of the persons appointed to exercise the powers of the Board on its dissolution.—In the event of dissolution of the Board under section 10, of the Act and the appointment of any person or persons for the exercise of all powers and duties of the Board, the remuneration and other allowances payable to such person or persons shall be such as may be fixed by the Central Government."

66. It was felt that the remuneration and other allowances payable to such person or persons should be specified in the rules as envisaged by clause (q) of sub-section (2) of section 33 of the Cardamom Act, 1965 instead of leaving it to be determined by the Government.

67. The Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) with whom the matter was taken up, in their reply dated the 5th August, 1978 stated as under:—

> "Section 33 of the Cardamom Act, 1965, provides that Central Government may make rules relating to the matters such as those mentioned in clause (a) to (w) of sub-section (2) of the same section. One of such matters is as given in clause (q) of the same section pertaining to 'the remuneration and other allowances payable to the person or persons referred to in clause (b) of sub-section (2) of Section 10 of the Act.' Accordingly Rule 47 provides how the remuneration payable to such persons will be fixed.
>
> Rule 47 empowers the Central Government to fix remuneration and other allowances payable to person or persons appointed to exercise all powers and duties of the Cardamom Board in the event of its dissolution. The fixation of the rate of remuneration itself in the rules may not be a practicable proposition as the rate will vary from time to time keeping in view the requirements and cost of living prevalent at the time of dissolution of the Board. If any rate of remuneration is fixed in the rules now, that may

not meet the requirements after a few years and hence no useful purpose will be served by providing the remuneration in the rules."

68. The Committee are not convinced by the contention of the Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) that fixation of the rate of remuneration etc. for persons appointed to exercise the powers of the Board on its dissolution in the rules is not a practicable proposition as the rates may vary from time to time in view of the requirements and cost of living. The Committee feel that it should not be difficult for the Ministry to issue an amendment to the rules if the rates are going to vary after 'a few years' as mentioned by them. These variations are likely to occur only at long intervals. The Committee desire the Department of Commerce to indicate in the Cardamom Rules, the amount of remuneration etc. payable to the persons appointed to exercise powers of the Board on its dissolution with an asterisk by indicating in the foot-note corresponding thereto that these are subject to change.

X

IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 98 OF THE TWENTIETH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SBHA) REGARDING GIVING OF SHORT TITLE TO THE 'ORDERS' [(i) LEVY OF OCTROI ON GOODS AND ANIMALS BROUGHT WITHIN THE LIMITS OF FEROZEPUR CANTONMENT BYE-LAWS (S.R.O. 133 OF 1971) (ii) IMPOSITION OF ENTERTAINMENT TAX IN THE KANPUR CANTONMENT BYE-LAWS (S.R.O. 366 OF 1971)].

69. The Committee on Subordinate Legislation in para 21 of their Second Report (Fourth Lok Sabha) presented to the House on the 14th December, 1968, observed as under:—

> ".....The Committee would like to emphasise that giving of short titles, to the rules, whether principal or amending, is very essential for facility of reference and tracing by all concerned."

70. In their subsequent Reports, the Committee have re-stressed the above observation time and again.

71. While examining the Levy of Octroi on Goods and Animals brought within the limits of Ferozepur Cantonment Bye-laws, 1971

and the Imposition of Entertainment Tax in the Kanpur Cantonment Bye-laws, 1971, along with other 'Orders' it was noticed that they did not bear Short Titles.

72. The Ministry of Defence with whom the matter was taken up had failed to furnish their final reply. The Committee in para 98 of their Twentieth Report (Fifth Lok Sabha) observed as under:—

> "The Committee regret to note that in spite of their repeated recommendations, short titles were not given to the 14 'Orders' mentioned in Appendix IV. As the 'Orders' in question were issued as early in 1971-72, the Committee feel that no purpose will be served by issuing the amendments at this stage for giving short titles to these 'Orders'. They will, however, like the Department of Parliamentary Affairs to re-emphasise on all the Ministries/Departments of Government of India the need of invariably giving short titles to rules, whether principal or amending, for facility of reference and tracing by all concerned."

73. In their action taken note dated the 17th August, 1977, the Ministry of Defence have stated as under:—

> "The matter has been (examined in consultation with the Ministry of Law (Legislative Department) who have advised that, as is clear from the recommendation of the Committee on Subordinate Legislation..... ....short titles are to be given to rules and not to notifications or orders. SROs 133 of 3rd April, 1971 and 366 of 9th October, 1971 are tax notifications and accordingly the recommendation does not apply to them. According to the existing practice also, 'short titles' are not given to such notifications."

74. The Committee observe that the Ministry of Law have taken too legalistic and narrow a view of the recommendation of the Committee that the term 'Rule' does not include 'Order'. The intention behind the recommendation of the Committee as contained in para 21 of their Second Report (Fourth Lok Sabha) is that all Rules, Regulations, Orders, Bye-laws, etc. which are published in the Gazette should bear the short titles for reference and tracing by all concerned.

75. The Committee do not insist upon the giving of short titles to the Bye-laws in the present case as no useful purpose will be served

by amending the Bye-laws of 1971. However, they desire the Ministry of Defence to invariably give the short titles to all Statutory Rules, Regulations, Orders and Bye-laws published in the Gazette of India henceforth.

SOMNATH CHATTERJEE,

Chairman,

Committee on Subordinate Legislation.

NEW DELHI;

The 19th April, 1979.

APPENDICES

APPENDIX I

(*Vide* para 4 of the Report)

Summary of main recommendations/observations made by the Committee

S. No.	Para No.	Summary
(1)	(2)	(3)
1(i)	9	The Committee are not convinced by the opinion of the Ministry of Law as furnished by the Ministry of Shipping and Transport (Transport Wing). The Committee feel that although Section 6 of the Indian Ports Act, under which the Port of New Mangalore Rules, 1976 have been framed, deals with the movement of vessels in and out of the Port for the purpose of loading and unloading of cargo yet a saving provision as contained in Rule 43 does not come within the ambit of that Section. The Committee, therefore, desire the Ministry of Shipping and Transport (Transport Wing) to omit Rule 43 from the Port of New Mangalore Rules, 1976, and get its provisions incorporated in the Indian Ports Act.
1(ii)	13	The Committee note that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have agreed that the port authorities would record the reasons in writing for removal of iron, steel machinery, packages, long and unwieldy heavy lifts to another place at the cost of the consignee. The Committee desire the Ministry to bring forth necessary amendment to the Port of New Mangalore Rules to the above effect at an early date.
1(iii)	17	The Committee note that on being pointed out, the Ministry of Shipping & Transport

(1)	(2)	(3)
		(Transport Wing) have agreed to amend sub-rule(2) of rule 60 and sub-rule (3) of Rule 62 of the Port of New Mangalore Rules, 1976 so as to provide for a reasonable opportunity of being given to the person concerned before his licence/registration certificate is cancelled and fixing the maximum period of suspension of licence/registration certificate as two months. The Committee desire the Ministry to publish the necessary amendments to Rules at an early date.
1(iv)	20	The Committee note that on being point out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (3) of Rule 60 and Rule 64 of the Port of New Mangalore Rules, 1976 so as to specify therein the maximum period of suspension of licence/registration certificate as two months. The Committee desire the Ministry to notify the requisite amendment to the Rules at an early date.
1(v)	24	The Committee note that on being point out, the Ministry of Shipping and Transport (Transport Wing) have agreed to amend sub-rule (6) of Rule 74 of the Port of New Mangalore Rules, 1976, to provide for recording of reasons in writing before the grant of exemption in order to obviate any scope of abuse of power. The Committee approve the proposed amendment and desire the Ministry to notify it at an early date.
2(i)	29	Although the error of failure to indicate the correct year in the short titles to the Rules has since been rectified yet the Committee regret to observe that the Ministries concerned did not care to verify after the publication of rules that their short titles bore the correct year of publication. The Committee have time and again emphasised that responsibility of the Ministry/Department does not cease with the sending of notifications to the Press. After the same are

(1)	(2)	(3)
		published in the Gazette it is the duty of the Ministry/Department concerned to examine whether these have been correctly printed and, if necessary to issue corrigendum thereto *suo-moto* without waiting for the Committee to point it out.
2(ii)	30	The Committee observe that the error in the present case is of a minor nature but all the same it can cause considerable inconvenience to the public in locating the Rules The Committee desire all the Ministries/Departments to be careful in such matter in future.
3	35	The Committee feel that the incorporation of a provision regarding laying of rules, regulations etc. framed under the Acts before Parliament is very important. It provides an opportunity to the Members to suggest amendments to the Rules, Regulations, etc. laid on the Table, if they contain any lacuna. The Committee desire the Ministries of Labour and Communications (P&T Board) to bring the necessary amending legislation at an early date. If some other proposed amendments to the Act are likely to take further time, they may bring amending legislation exclusively for the laying provision as early as possible, but in no case later than the Monsoon Session, 1979.
(i)	41	The Committee deprecate the failure on the part of the Ministry of Industry (Department of Industrial Development) in not furnishing their final reply. The Committee observe that such delays not only hamper the work of the Commit-

(1)	(2)	(3)
		tee but also result in unnecessary prolongation of infirmities in the rules. The Ministry should be prompt in sending replies to the communications sent by the Committee and not deal with them in lackadaisical manner.
4(ii)	42	The Committee desire the Ministry of Industry (Department of Industrial Development) to notify the requisite amendment at an early date to the Khadi and Village Industries Commission Regulations, 1976 providing for safeguards against the misuse of powers given under regulation 5(3)(d).
5(i)	51	The Committee observe that the replies furnished by the Ministry of Communications (P&T Board) and the Department of Personnel and Administrative Reforms are contradictory to each other. The Ministry of Communications have, in their reply, stated that Department of Personnel and Administrative Reforms have accepted their contention for not giving the number of posts in the recruitment rules whereas the Department of Personnel and Administrative Reforms in their reply have stated that as far as possible it is insisted upon Ministries/Departments to indicate the number of posts in the recruitment rules and no deviation in this regard is made unless there are exceptional reasons therefor. However, the Committee would like to accept the suggestion of the Department of Personnel and Administrative Reforms regarding indicating the number of posts in the recruitment rules with an asterisk to say that these are subject to variation.
5(ii)	52	The Committee desire the Ministry of Communications (P&T Board) to amend the Posts and Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules, 1976 by indicating the number of posts with an asterisk and a foot-note thereto saying that these are subject to variation and the Department of Person-

(1)	(2)	(3)
		nel and Administrative Reforms to amend the Central Vigilance Commission (Staff) Rules, 1964 to specify therein the various categories of the posts in the Central Vigilance Commission as also the number of posts in each category with an asterisk and a foot-note as suggested by them. The Committee further desire the Department of Personnel and Administrative Reforms to issue the necessary instructions to all Ministries/Departments in this regard for compliance.
6	60	The Committee are not convinced by the arguments advanced by the Department of Space, Department of Personnel and Administrative Reforms and the Ministry of Shipping and Transport (Transport Wing) for retaining Rule 3(2) of the Classification, Control and Appeal Rules. The Committee feel that when Sub-rule (1) of Rule 3 of the Department of Space Employees (Classification, Control and Appeal) Rules, 1976, the Bombay Port Trust Employees (Classification and Appeal) Regulations, 1976 and the Central Civil Services (Classification, Control and Appeal) Rules, 1965, list the categories of Employees who have been exempted from the operation of the respective Rules, the provisions of sub-rule (2) of Rule 3 of the Rules appear to be redundant because such discretionary powers may result in favourtism leading to discrimination. The Committee therefore, desire the Department of Space, Department of Personnel and Administrative Reforms and Ministry of Shipping and Transport (Transport Wing) to delete sub-rule (2) of Rule 3 of their respective Classification, Control and Appeal Rules.
7	64	The Committee note with satisfaction that on being pointed out, the Department of Space have amended the Department of Space Employees (Classification, Control and Appeal) Rules, 1976 by deleting therefrom the provision of suspend-

(1)	(2)	(3)
		ing an employee for debt which is of an unusual nature.
8	68	The Committee are not convinced by the contention of the Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) that fixation of the rate of remuneration etc. for persons appointed to exercise the powers of the Board on its dissolution in the rules is not a practicable proposition as the rates may vary from time to time in view of the requirements and cost of living. The Committee feel that it should not be difficult for the Ministry to issue an amendment to the rules if the rates are going to vary after 'a few years' as mentioned by them. These variations are likely to occur only at long intervals. The Committee desire the Department of Commerce to indicate in the Cardamom Rules, the amount of remuneration etc. payable to the persons appointed to exercise powers of the Board on its dissolution with an asterisk by indicating in the foot-note corresponding thereto that these are subjects to change.
9(i)	74	The Committee observe that the Ministry of Law have taken too legalistic and narrow a view of the recommendation of the Committee that the term 'Rule' does not include 'Order'. The intention behind the recommendation of the Committee as contained in para 21 of their Second Report (Fourth Lok Sabha) is that all Rules, Regulations, Orders, Bye-laws, etc. which are published in the Gazette should bear the short-titles for reference and tracing by all concerned.
9(ii)	75	The Committee do not insist upon the giving of short titles to the Bye-laws in the present case as no useful purpose will be served by amending the Bye-laws of 1971. However, they desire the Ministry of Defence to invariably give the short titles to all Statutory Rules, Regulations, Orders and Bye-laws published in the Gazette of India henceforth.

MINUTES

APPENDIX II

(*Vide* para 3 of the Report)

MINUTES OF THE THIRTY-FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1978-79)

The Committee met on Wednesday, the 21st March, 1979 from 15.30 to 16.30 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Shri Ram Sewak Hazari
4. Shri B. K. Nair
5. Shri T. S. Negi
6. Kumari Maniben Vallabhbhai Patel
7. Shri G. S. Reddi
8. Shri Madan Lal Shukla
9. Shri Sachindralal Singha.

* * * * *

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. & 3. * * * * *

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4. The Committee then considered Memoranda Nos. 211 to 217 on the following subjects:—

Sl. No.	Memorandum	Subject
(i)	211	* * *
(ii)	212	* * *
(iii)	213	* * *
(iv)	214	* * *
(v)	215	The Port of New Mangalore Rules, 1976 (G.S.R). 122 of 1977).
(vi)	216	* * *
(vii)	217	* * *

*Omitted portions of the Minutes are not covered by this Report.

(i) to (iv) * * * * *

(v) *The Port of New Mangalore Rules*, 1970 (*G.S.R. 122 of 1977*)—(*Memorandum No. 215*).

(A)

The Committee considered the above Memorandum. While noting the opinion of the Ministry of Law that Section 6 of the Indian Ports Act under which the Port of New Mangalore Rules had been framed dealt with the movement of vessels in and out of the Port for the purpose of loading and unloading of cargo, the Committee felt that a saving provision as contained in Rule 43 did not come within the ambit of that Section. The Committee, therefore, desire the Ministry of Shipping and Transport (Transport Wing) to omit rule 43 from the Port of New Mangalore Rules, 1976 and to get this provisions incorporated in the Indian Ports Act.

(B)

The Committee noted with satisfaction that on being pointed out, the Ministry of Shipping and Transport (Transport Wing) had agreed that the port authorities should record the reasons in writing for removal of iron, steel, machinery packages etc. to another place at the cost of the consignee. The Committee desired the Ministry to bring forth the necessary amendment to the Port of New Mangalore Rules at an early date.

(C)

The Committee noted with satisfaction that on being pointed out the Ministry of Shipping and Transport had agreed to amend sub-rule (2) of Rule 60 and sub-rule (3) of Rule 62 of the Port of New Mangalore Rules, 1976 so as to provide for giving of a reasonable opportunity of being heard to the persons concerned and for fixing the maximum period of suspension as two months. The Committee agreed with the proposed amendment sent to them for approval and desired the Ministry to issue the said amendment to the rules at an early date.

(D)

The Committee noted with satisfaction that on being pointed out the Ministry of Shipping and Transport (Transport Wing) had agreed to amend sub-rule (3) of Rule 60 and Rule 64 of the Port

*Omitted portions of the Minutes are not covered by this Report.

of New Mangalore Rule, 1976 so as to specify therein the maximum period of suspension as two months. The Committee agreed with the proposed amendment sent to them for approval and desired the Ministry to issue the necessary amendments to the Rules at an early date.

(E)

The Committee considered the above Memorandum and noted with satisfaction that on being pointed out the Ministry of Shipping and Transport (Transport Wing) had agreed to amend sub-rule (6) of Rule 74 of the Port of New Mangalore Rules, 1976 to provide for a guard against any possible abuse of the power of exemption by the Conservator. The Committee in this connection approved the following amendment proposed by the Ministry and desired them to issue it at an early date:

> "The Port may exempt, after recording reasons in writing before grant of such exemption, any vessel or line of vessel from the provisions of this Rule for such period as the Conservator may think fit."

* * * * *

The Committee then adjourned.

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*Omitted portions of the Minutes are not covered by this Report.

MINUTES OF THE THIRTY-FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1978-79)

The Committee met on Friday, the 6th April, 1979 from 15.30 to 16.00 hours.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

2. Shri Durga Chand
3. Shri B. K. Nair
4. Kumari Maniben Vallabhbhai Patel
5. Shri G. S. Reddi
6. Shri Saeed Murtaza.

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Committee considered their draft Eighteenth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri Durga Chand to present the Eighteenth Report to the House on their behalf on the 9th April, 1979.

4. The Committee then considered Memoranda Nos. 218 to 225 on the following subjects:—

S. No.	Memorandum	Subject
1	218	(i) The Major Port Trust (Procedure at Board Meetings) Amendment Rules, 1974 (G.S.R. 876 of 1976); (ii) The Ministry of Finance, Department of Banking (Class IV Posts) Recruitment (Amendment) Rules, 1973 (G.S.R. 1689 of 1976).

S. No.	Memorandum	Subject
2	219	(i) The Mica Mines Labour Welfare Fund (Amendment) Rules, 1976 (G.S.R. 1457 of 1976); (ii) The Indian Post Office (Eighth Amendment) Rules, 1976 (S.O. 2915 of 1976).
3	220	The Khadi and Village Industries Commission (Amendment) Regulations, 1976 (G.S.R. 1307 of 1976).
4	221	(i) The Posts & Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules 1976 (G.S.R. 1385 of 1976); (ii) The Central Vigilance Commission (Staff) Amendment Rules, 1976 (G.S.R. 363 of 1976).
5	222	(i) The Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 (S.O. 270-E of 1976); (ii) The Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 (G.S.R. 643 of 1976).
6	223	The Department of Space Employees' (Classification, Control and Appeal) Rules, 1976 (S.O. 270-E of 1976).
7	224	The Cardamom (Amendment) Rules, 1977 (G.S.R. 1458 of 1977).
8	225	Implementation of recommendation contained in para 98 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of short title to the 'Orders' [(i) Levy of Octroi on Goods and Animals brought within the limits of Ferozepur Cantonment Bye-laws (S.R.O. 133 of 1971) (ii) Imposition of Entertainment Tax to the Kanpur Cantonment Bye-laws (S.R.O. 366 of 1971)]

(i) (a) The Major Port Trust (Procedure at Board Meetings) Amendment Rules, 1974 (G.S.R. 876 of 1976);

(b) The Ministry of Finance, Department of Banking (Class IV Posts) Recruitment [Amendment Rules, 1973 (G.S.R. 1689 of 1976)—(Memorandum No. 218)].

5. The Committee considered above memorandum and noted that although the error of failure to indicate correct year in short titles to the rules under reference has since been rectified, it was apparent that the Ministry of Shipping and Transport (Transport Wing) and the Ministry of Finance (Department of Economic Affairs) did not care to see that short titles to the rules bore the correct year. The Committee have repeatedly emphasised that responsibility of the Ministries|Departments does not cease with the sending of notifications to the Press. After the publication of the notifications it was the duty of the Ministry|Department concerned to examine whether these had been correctly printed, and if necessary, to issue corrigendum thereto. The Committee were of the view that efforts in the present case was of minor nature, but all the same it could cause considerable inconvenience to the public in locating the rules. The Committee therefore, desired all Ministries/Departments to be careful in such matter in future.

(ii) (a) The Mica Mines Labour Welfare Fund (Amendment Rules, 1976) (G.S.R. 1457 of 1976);

(b) The Indian Post Office (Eighth Amendment) Rules, 1976 (S.O. 2915 of 1976)—(Memorandum No. 219).

6. The Committee considered the above memorandum and felt that the provision regarding laying of rules, regulations etc. framed under the Acts was very important. After inclusion of that provision it would be incumbent upon the Ministries|Departments concerned to lay the rules, regulations etc. on the Table of the House. It would also afford an opportunity to the Members of the House to suggest any amendment to the rules, regulations laid on the Table. The Committee therefore, desired the Ministries of Labour and Communications (P & T) to amend the Mica Mines Labour Welfare Fund Act, 1946 and the Indian Post Office Act, 1898, for incorporating laying provision therein. If some other proposed amendments to the Acts are likely to take further time, they may bring amending legislation exclusively for the laying provision as early as possible, but in no case later than the Monsoon Session, 1979.

(iii) The Khadi and Village Industries Commission (Amendment) Regulations, 1976 (G.S.R. 1307 of 1976)—(Memorandum No. 220).

7. The Committee considered above memorandum and deprecated the delay on the part of the Ministry of Industry (Department of Industrial Development) for not sending final reply in the matter. The Committee felt that such delays not only hamper the work of

the Committee but also result in unnecessary prolongation of infirmities in the rules. The Ministry should have been prompt in sending their replies to the communications sent by the Committee and not deal them in lackadaisical manner. The Committee desire the Ministry of Industry (Department of Industrial Development) to notify the requisite amendment providing for fareguards against the misuse of powers given under regulation 5(3) (d) of the Khadi and Village Industries Commission Regulations, 1976 at an early date.

(iv) (a) The Posts and Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules, 1976 (G.S.R. 1385 of 1976);

(b) The Central Vigilance Commission (Staff) Amendment Rules, 1976 (G.S.R. 363 of 1976) (Memorandum No. 221).

8. The Committee considered the above Memorandum and observed that the replies of the Ministry of Communications and Department of Personnel and Administrative Reforms appeared to be contradictory to each other. However, they accepted the suggestion of the Department of Personnel and Administrative Reforms regarding indication of the number of posts in the recruitment rules by putting an asterisk and showing in the foot-note that those were subject to variation. The Committee therefore, desired the Ministry of Communications (P & T Board) and Ministry of Home Affairs (Department of Personnel and Administrative Reforms) to amend the rules under reference by indicating the number of posts and putting an asterisk indicating in the foot-note that those were subject to variation. The Committee also desired the Department of Personnel and Administrative Reforms to issue the necessary instructions in this regard to all Ministries|Departments at an early date for compliance.

(v) (a) The Department of Space Employees (Classification, Control and Appeal) Rules, 1976 (S.O. 270-E of 1976);

(b) The Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 (G.S.R. 643 of 1976)—Memorandum No. 222).

9. The Committee considered the above Memorandum and were not convinced by the arguments advanced by the Department of Space, Department of Personnel and Administrative Reforms and the Ministry of Shipping and Transport (Transport Wing) for retaining rule 3(2) in the Classification, Control and Appeal Rules. The Committee felt that when sub-rule (1) of rule 3 of the Department of Space Employees' (Classification, Control and Appeal) Rules,

1976, the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 and the Central Civil Services (Classification, Control and Appeal) Rules, 1965, indicated the categories of employees who had been exempted from the operation of the respective Rules, the provisions of sub-rule 3 (2) of those rules appeared to be redundant. Unspecified and unfettered discretionary powers might result in undue favouritism leading to discrimination. The Committee desired the Ministries/Departments concerned to delete sub-rule (2) of rule 3 of the Classification, Control and Appeal Rules.

(vi) The Department of Space Employees (Classification, Control and Appeal) Rules, 1976 (S.O. 270-E of 1976)—(Memorandum No. 223).

10. The Committee considered the above Memorandum and noted that on being pointed out, the Department of Space had omitted from rule 7(1) (c) of the Department of Space Employees (Classification, Control and Appeal) Rules, 1956, the provision regarding placing an employee under suspension if he had been under prevention detention or had been arrested for debt which was of an unusual nature.

(vii) The Cardamom (Amendment) Rules, 1977 (G.S.R. 1458 of 1977)—(Memorandum No. 224).

11. The Committee considered the above Memorandum and were not convinced by the reply of the Ministry of Commerce, Civil Supplies and Cooperation, (Department of Commerce) for not specifying in the rules the remuneration and other allowances payable to persons appointed to exercise the powers of the Board on its dissolution. The Committee were of the view that it should not be difficult for the Ministry to issue an amendment to the rules if the rates of remuneration and other allowances were going to vary after a few years as had been contended by the Ministry. The Committee desired the Ministry to indicate the remuneration and other allowances payable in the rules with an asterisk and give a foot-note that these were subject to change.

(viii) Implementation of recommendation contained in para 98 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of short title to the 'Orders' [(i) Levy of Octroi in Goods and Animals brought within the limits of Ferozepur Cantonment Bye-laws (S.R.O. 133 of 1971) (ii) Imposition of Entertainment Tax in the Kanpur Cantonment Bye-laws (S.R.O. 366 of 1971)]—(Memorandum No. 225).

12. The Committee considered above memorandum and observed that the Ministry of Law had taken too legatistic and narrow a view of the observation of the Committee that the term 'Rule' does not include 'Order'. The intention behind the observation made by the Committee in para 21 of their Second Report (Fourth Lok Sabha) was that all statutory Rules, Regulations, Orders and Bye-laws etc. which were published in the Gazette should bear short titles for reference and tracing by all concerned. The Committee decided not to insist upon the giving of short titles to the Bye-laws in the present case as no useful purpose would be served by amending the Bye-laws of 1971. However, they desired the Ministry of Defence to positively indicate henceforth short titles to all statutory Rules, Regulations, Orders and Bye-laws published in the Gazette of India.

The Committee then adjourned.

MINUTES OF THE THIRTY-SIXTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1978-79)

The Committee met on Thursday, the 19th April, 1979 from 15.30 to 16.00 hours.

PRESENT

Shri Somnath Chatterjee - Chairman

MEMBERS

2. Chaudhary Hari Ram Makkasar Godara
3. Kumari Maniben Vallabhbhai Patel
4. Shri P.A. Sangma
5. Shri Sachindralal Singha
6. Shri Krishnarao Thakur

SECRETARIAT

Shri Y. Sahai - Chief Legislative Committee Officer

2. xx xx xx xx xx

3. The Committee then considered their draft Nineteenth and xx xx Reports and adopted them.

4. The Committee authorised the Chairman and in his absence, Shri Sachindralal Singha xx xx xx xx xx to present the Nineteenth xx xx xx Report to the House on their behalf on 25th April, 1979 xx xx xx xx.

The Committee then adjourned.

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xx Omitted portions of the Minutes are not covered by this Report.